19~~43~~

File No. Prisons II
43

Legal Department

B **BRANCH**

Subject:—

Rules and Notifications

under the

Prisons Act 1894

(P) 2
(E)

File No: Prisons II 143

[illegible]

1911 B

Notification.
Home Department.

Bombay Castle, 1943.

Prisons Act, 1894.

No.6178/4.- In exercise of the powers conferred by clause (26) of section 59 of the Prisons Act, 1894 (IX of 1894), the Government of Bombay is pleased to make the following rule namely:-

"The provisions of clauses (11) and (27) of section 59 of the Prisons Act, 1894 (IX of 1894), shall extend to all the subsidiary jails in the Province of Bombay."

By order of Governor of Bombay.

Secretary to Government.

R.D.P.
14/1/46

S.C.

1647
K.B.P.

Notification.

Home Department.

Bombay Castle, 1943.

Prisons Act, 1894.

No.6178/4.-In exercise of the powers conferred by clauses (11) and (27) of section 59 of the Prisons Act, 1894 (IX of 1894) read with the rule made by the Provincial Government under Government Notification, Home Department No. dated the ..... 1943, the Government of Bombay is pleased to amend the rules contained in the Bombay Sub-Jail Manual,1923, as follows, namely:-

To Section XXVI of the said rules the following new rule shall be added, namely:-

"178-A. Notwithstanding anything contained in this Section of the rules, Superintendents may during the continuance of the present war, alter the dietary of the prisoners to such extent and in such manner as they think fit. Superintendents shall as soon as practicable report every alteration made by them under this rule to the District Magistrate concerned and the Inspector General of Prisons."

By order of the Governor Bombay,

Secretary to Government.

R.D.P.
14/7/56

S.C.

Office of the H.L.A.

Revised draft notifications are sent herewith. It is presumed that clause (27) of section 58 of the Act has not been extended to the subsidiary jails. The first notification therefore extends that clause also to the jails.

Id/-

P.M.M.

13/2/43.

Remembrancer of Legal Affairs.

U.O. to H.D., No.1138, dated the 16th February 1943.

H.D.P.
14/7/56

D.C.

Office of the R.L.A.

In place of the proposed orders at pages 27-28 ante, a revised draft order combining them, is sent herewith.

(a) It is presumed that the two rooms declared in para.(1) of Government Notification, Home Department No.7728/2, dated the 30th July 1930, to be subsidiary jail, form part of the whole building now to be declared as such.

(b) Before the revised draft notification is issued, the date with effect from which the whole building is proposed to be declared as subsidiary jail, should be duly inserted.

Id/-

for Remembrancer of Legal Affairs.

U.R. to H.D.,No.2955,dated the 21st April 1943.

R.D.P.
14/7/56

S.C.

ORDER.

Home Department,

Bombay Castle, April 1943.

Prisons Act, 1894.

No.6450/4.- In exercise of the powers conferred by clause (g) of sub-section (1) of section 3 of the Prisons Act, 1894 (IX of 1894), the Government of Bombay is pleased

(a) to cancel Government Order, Home Department, No.6450/4, dated the 20th October 1942; and

(b) in modification of clause (1) of Government Notification, Home Department, No. 7723/2, dated the 30th July 1930, to declare the whole of the building situated in Revenue S.No.217-B and bearing City S.No.1974 at Jalgaon, in which the office of the Deputy & Educational Inspector, East Khandesh, was till recently held, to be a subsidiary jail, with effect from the .....

By order of the Governor of Bombay

Secretary to Government.

R.D.P.
14/7/43

S.C.

Office of the R.L.A.

The draft notification at page 21 as slightly amended, is in order .

Id/-

P.N.H.

26/4/43.

Remembrancer of Legal Affairs.

U.R. to H.D.,No.3032,dated the 27th April 1943

R.D.P.
14/7/66

L.C.

Office of the R.L.A.

The draft notification at pages 39,42 and 45 have been sent to the R.L.A. for scrutiny. The first notification(page 39) purports to make a rule under clause (26) of section 59 of the Prisons Act, 1894, for extending the provisions of clause (5) of section 59 of the Prisons Act to all subsidiary jails in the Province of Bombay with effect from 1-6-23. The intention in giving restrospective effect to the rule appears to be to give legal sanction to rules 168 and 169 which have been incorporated in the sub Jail Manual since that date without the authority of any statutory notification. But in the absence of a provision in the Prisons Act authorising Government to make rules with retrospective effect it appears that it would not be possible to make such rule. It would be necessary first to make a rule under section 59(26) of the Prisons Act extending the provisions or clause (5) of section 59 and then reissue rules 168 and 169 in exercise of the powers conferred by clause (5) of section 59 read with the rule made under clause (26) of the section. A revised draft notification extending the provisions of clause (5) of section 59 to the subsidiary jails is sent herewith.

2. The second draft notification (page 42) purports to insert a note to rule 741 of the rules contained in Part I of the Bombay Jail Manual. That note says that the period spent in a sub-jail shall be taken into account along with the period spent by a prisoner in a large prison in calculating the remission when he is transferred from a sub-jail to a large prison. It seems from the portion marked A A in the draft amendment on page 29 prepared by H.D. that the intention is to make a provision similar to the one made in the case of prisoner transferred from a prison to a sub-jail; that is to say, to make a provision for calculating remission due to a

prisoner in the month of transfer and not during the whole period spent by him in a sub-jail. A revised notification making the necessary provision is sent herewith. H. D. should verify whether it is in accordance with its intention.

3. The third draft notification at page 45 purports to substitute a new rule for the existing rule 2 in the Sub-Jail Manual. In regard to this rule the position appears to be as follows:- In 1899 Government made a rule under section 60(a) of the Prisons Act, 1894 (section 60(a) corresponds to a section 59 (26) of the Act as it stands at present) extending the provisions of section 21,24(1),25,31, 32,33(1),40,41,42,43, and 44 and clauses (a) and (b) of section 60 to all subsidiary jails established at the headquarter stations of all talukas and mahals (see G.R.J.D.No. 5120 dated 20-7-1899). The Government of India (Adaptation of Indian Laws) Order, 1937 amalgamated sections 59 and 60 of the Prisons Act into one section namely, section 59. Clauses (a),(b) and (c) of section 60 became clauses (3),(9) and (26) respectively of section 59 and these changes were shown in 1940 in rule 2 by means of a correction slip. Clause (25) of section 59 has been subsiquently extended to the subsidiary jails by a separate rule issued under G.R.H.D. No.9180/3-IV-B dated 1-2-1940 and it is proposed to extend clause (5) of section 59 to the said jails another rule under section 59(26). It will appear from the above that rule 2 contained in the Jail Manual is not statutory rule but statement recording the fact of the extension of the relevant provisions of the Prisons Act to the subsidiary jails made by separate rules at various times. The changes in rule 2 contained in the Jail Manual which are consequent on the extension of the provisions of the Act and the rules thereunder can therefore be made by means of a correction slip no statutory notification is necessary for the purpose

The changes in rule 2 contained in the jail Manual which are consequent on the extension of the provisions of the Act and the rules thereunder can therefore be made by means of a correction slip. No statutory notification is necessary for the purpose.

Id/-

P.M.M.

26/5

Remembrancer of Legal Affairs.

U.R. to H.D., No.3832, dated the 27th May 1943.

R.D.P.
16/7/56

S.C.